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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,554	11/10/2003	Gerhard Mersch	60,130-1915;02MRA0419	5495
26096	7590	12/28/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			SMITH, TYRONE W	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-2

Office Action Summary	Application No.	Applicant(s)	
	10/705,554	MERSCH, GERHARD	
	Examiner	Art Unit	
	Tyrone W. Smith	2837	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 6, 8, and 9 rejected under 35 U.S.C. 102(e) as being anticipated by Cregeur (6541929).

Regarding Claims 1 and 2. Cregeur discloses an apparatus and method for controlling vehicle power windows which includes detecting or checking when the first or second window pane (Figure 1 items 12-18) is approaching a fully closed position (using a position sensor Figure 1 item 62; column 3 lines 10-40) and using the control switches (Figure 1 items 52-58) for moving the first window pane to an approximately closed position if the second window pane is approaching the fully closed position, moving the first window pane to the fully closed position if the second window pane is not approaching the fully closed position where the switches control the power windows (column 2 lines 49-67, column 3 lines 1-10, 62-67 and column 4 lines 1-10). Further, Cregeur discloses a controller or control module (Figure 1 item 40) for control of the motor and windows.

Regarding Claim 6. Cregeur discloses approximately closed position corresponds to a position where at least one of the first and second windowpane contacts a corresponding seal with low force (using a position sensor Figure 1 item 62; column 3 lines 10-40).

Regarding Claims 8 and 9. Cregeur discloses a step of moving the first window pane to the fully closed position comprises pressing the first window pane against a seal until blocking of the window lifter motor occurs (column 3 lines 10-40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 rejected under 35 U.S.C. 103(a) as being unpatentable over Cregeur (6541929) in view of Ikeda (JP10-102905).

Cregeur discloses an apparatus and method for controlling vehicle power windows which includes detecting or checking when the first or second window pane (Figure 1 items 12-18) is approaching a fully closed position (using a position sensor Figure 1 item 62; column 3 lines 10-40) and using the control switches (Figure 1 items 52-58) for moving the first window pane to an approximately closed position if the second window pane is approaching the fully closed position, moving the first window pane to the fully closed position if the second window pane is not approaching the fully closed position where the switches control the power windows (column 2 lines 49-67, column 3 lines 1-10, 62-67 and column 4 lines 1-10). However, Cregeur does not disclose detecting whether the power window (first or second) has arrived at an end zone (threshold) before the power window is fully closed.

Regarding Claims 3 and 5. Ikeda discloses a power window device, which includes a device for suspending the closing movement of the window when detecting an object caught in

the window (end zone before complete closure) and then learning and renewing the data for detection of an obstruction of the window. The data read in the position in which the area of obstruction occurred (end zone or threshold) (abstract).

It would have been obvious to one of ordinary skill at the time of invention to use Cregeur's apparatus and method for controlling vehicle power windows with Ikeda's a power window device. The advantage of combining the two would provide a system that can detect obstruction and retain data for detection future obstructions.

Regarding Claim 4. Cregeur discloses the claimed invention except showing the end zone covers approximately 4 mm before the fully closed position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to program or adjust the end zone or threshold as related to the closure of the power window. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954) (Claims were directed to a handle for a fishing rod wherein the handle has a longitudinally adjustable finger hook, and the hand grip of the handle connects with the body portion by means of a universal joint. The court held that adjustability, where needed, is not a patentable advance, and because there was an art-recognized need for adjustment in a fishing rod, the substitution of a universal joint for the single pivot of the prior art would have been obvious.).

It would have been obvious to one of ordinary skill at the time of invention to use Cregeur's apparatus and method for controlling vehicle power windows with Ikeda's a power window device. The advantage of combining the two would provide a system that can detect obstruction and retain data for detection future obstructions.

5. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Cregeur (6541929) in view Ikeda (JP10-102905) and Itoh et al (4870333).

Creguer discloses an apparatus and method for controlling vehicle power windows which includes detecting or checking when the first or second window pane (Figure 1 items 12-18) is approaching a fully closed position (using a position sensor Figure 1 item 62; column 3 lines 10-40) and using the control switches (Figure 1 items 52-58) for moving the first window pane to an approximately closed position if the second window pane is approaching the fully closed position, moving the first window pane to the fully closed position if the second window pane is not approaching the fully closed position where the switches control the power windows (column 2 lines 49-67, column 3 lines 1-10, 62-67 and column 4 lines 1-10). However, Creguer does not disclose checking whether a third window lifter is transmitting a blocking signal when the first windowpane reaches the approximately closed position.

Ikeda discloses a power window device, which includes a first and a second window lifter motor (Figure 1 item 8); a first and a second controller (Figure 1 item 10) that drive the first and second window lifter motors; a actuation and detection control device or blocking signal generator (Figure 1 item 18) that generates a blocking signal when at least one of the first and second sensor (Hall or Pulse sensors; Figure 1 item 24) indicates that at least one of the first and second window pane is approaching a fully closed position thereof, and checks whether one of said first and second controllers is transmitting a blocking signal (pages 4-5 section [0025-0033]. Further, the first controller causes the first window lifter motor to move the first window pane to an approximately closed position if the checking circuit detects the blocking signal from the second controller and causes the first window lifter motor to move the first window pane to a fully closed position if the checking circuit does not detect the blocking signal from the second controller. The controllers are separate from each other therefor a first window, controlled by the first controller, can proceed to close whether or not a checking circuit or similar detect a blocking signal from the second controller; this does not impede the progress of the first

window. (Figure 1, abstract, pages 4-9. However, neither Creguer nor Ikeda discloses starting a counter corresponding to a waiting time if the checking step does not detect a blocking signal and moving the first window pane to the fully closed position and transmitting a blocking signal when the counter has reached a predetermined value corresponding to the waiting time.

Itoh discloses an automatic opening and closing device for a window, which includes starting a counter corresponding to a waiting time if the checking step does not detect a blocking signal (column 14 lines 10-16); moving the first window pane to the fully closed position and transmitting a blocking signal when the counter has reached a predetermined value corresponding to the waiting time (column 14 lines 17-26). Also refer to the abstract.

It would have been obvious to one of ordinary skill in the art at the time of invention to use Cregeur's apparatus and method for controlling vehicle power windows, Ikeda's a power window device and Itoh's an automatic opening and closing device for a window. The advantage of combining the invention would provide a system, which can have fast response, possible to exhibit a desirable ventilate ability, and can prevent the accident of squeezing an object in the opening/closing device.

6. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Cregeur (6541929) in view of Kurihara et al (4536687).

Cregeur discloses an apparatus and method for controlling vehicle power windows which includes detecting or checking when the first or second window pane (Figure 1 items 12-18) is approaching a fully closed position (using a position sensor Figure 1 item 62; column 3 lines 10-40) and using the control switches (Figure 1 items 52-58) for moving the first window pane to an approximately closed position if the second window pane is approaching the fully closed position, moving the first window pane to the fully closed position if the second window

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pane is not approaching the fully closed position where the switches control the power windows (column 2 lines 49-67, column 3 lines 1-10, 62-67 and column 4 lines 1-10). However, Creguer does not disclose checking whether a third window lifter is transmitting a blocking signal when the first windowpane reaches the approximately closed position. However, Cregeur does not disclose checking whether the vehicle engine is running, wherein the steps of moving the first (or second) windowpane to an approximately closed position are executed only when the vehicle engine is running.

Kurihara discloses an apparatus for controlling power windows of a vehicle, which includes checking whether the vehicle engine is running (column 2 lines 16-38); moving the first (or second) windowpane to an approximately closed position are executed only when the vehicle engine is running (column 2 lines 16-38) Note that in Kurihara if the automatic closure unit is off, then the engine have to be turned on in order to close the power windows (column 4 lines 34-46).

It would have been obvious to one of ordinary skill in the art at the time of invention to use Cregeur's an apparatus and method for controlling vehicle power windows with Kurihara's an apparatus for controlling power windows of a vehicle. The combination of the two would provide a system that can detect the window open or closed when the ignition switch is open with the option of automatically closing the window of the it is open if the engine is off.

Allowable Subject Matter

7. Claims 11-20 allowed.

Response to Arguments

8. Applicant's arguments filed October 19, 2005 have been fully considered but they are not persuasive.

First, Examiner apologizes to the Applicant for any problems or misunderstanding in the prosecution of this case. Applicant argues Creguer does not disclose a control module for controller the steps as presented in claim 1. In claims 6, 8 and 9 the Applicant states that Creguer does not disclose the approximately closed position corresponds to a position where at least one of the first and second windowpane contacts a corresponding seal with low force and a step of moving the first window pane to the fully closed position comprises pressing the first window pane against a seal until blocking of the window lifter motor occurs. In claims 3-5, Applicant argues that there is no reason to combine the references of Creguer and Ikeda. In claim 11, Applicant argues that Creguer does not disclose a blocking signal that is generated when a widow pane is approaching a fully closed position and checking if the first and second controllers are transmitting a blocking signal.

Regarding Claim 1, Examiner refers Applicant to M.P.E.P. Chapter 2100 section 2111[R1], During patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). < Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 51 (CCPA 1969) (Claim 9 was directed to a process of analyzing data generated by mass spectrographic analysis of a gas. The process comprised selecting the data to be analyzed by subjecting the data to a mathematical manipulation. The examiner made rejections under 35 U.S.C. 101 and 102. In the 35 U.S.C. 102 rejections, the

examiner explained that a mental process augmented by pencil and paper markings anticipated the claim. The court agreed that the claim was not limited to using a machine to carry out the process since the claim did not explicitly set forth the machine. The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim, to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification."). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999) (The Board's construction of the claim limitation "restore hair growth" as requiring the hair to be returned to its original state was held to be an ** >incorrect< interpretation of the limitation. The court held that, consistent with applicant's disclosure and the disclosure of three patents from analogous arts using the same phrase to require only some increase in hair growth, one of ordinary skill would construe "restore hair growth" to mean that the claimed method increases the amount of hair grown on the scalp, but does not necessarily produce a full head of hair.). Examiner rejection is based on the claims as presented. Therefore, in claim 1 (a) and (b)

detecting or checking when the first or second windowpane is approaching a fully closed position, Creguer uses a position detector to perform this task and information is send to the controller; (c) and (d) moving the first window pane to an approximately closed position if the second window pane is approaching the fully closed position, moving the first window pane to the fully closed position if the second window pane is not approaching the fully closed position where the switches control the power windows, this is performed by using the control switches connected to the controller in Creguer; (d) Cregeur discloses a controller or control module (Figure 1 item 40) for control of the motor and windows. Examiner suggests that the Applicant present that the control module or controller is performing this task independently and without the users input.

Regarding Claims 6, 8 and 9, Cregeur discloses approximately closed position corresponds to a position where at least one of the first and second windowpane contacts a corresponding seal with low force (using a position sensor); Cregeur discloses a step of moving the first window pane to the fully closed position comprises pressing the first window pane against a seal until blocking of the window lifter motor occurs. Applicant should refer again to column 3 lines 10-40 where position sensors provide an indication of the window's position (where most power windows have an ending or end seal) and send to the controller in Creguer..

Regarding Claims 3-5, the Examiner provide a translation of Ikeda (JP10-102905) dated October 19, 2004, therefore in this case a translation covers the rejected claims 3-5 can reasonably be understood by the Applicant. In Ikeda a device for suspending the closing movement of the window when detecting (blocking signal) an object caught in the window (end zone before complete closure); then learning and renewing the data for detection of an obstruction of the window. The data read in the position in which the area of obstruction occurred (end zone or threshold) (abstract). In response to applicant's argument that the

examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Regarding Claim 11, the Examiner agrees with the Applicant based on the claims and arguments as presented regarding the blocking signal generator and checking circuit in that the blocking signal generator generates only a signal that indicates that the window is moving to a fully closed position, therefore would not generate any indication that there is foreign object or similar that impedes the window. Further, a checking circuit that checks whether one of the first and second controller generates the same blocking signal.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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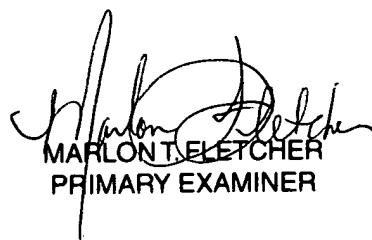
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tyrone W. Smith whose telephone number is 571-272-2075. The examiner can normally be reached on weekdays from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin, can be reached on 571-272-2800 ext. 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tyrone Smith
Patent Examiner

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MARLON T. FLETCHER
PRIMARY EXAMINER